

June 27, 2025

VIA ECF

Magistrate Judge Peggy Kuo
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *State Farm Mut. v. Metro Pain*, 1:21-cv-05523 – Joint Report Re Discovery Status

Dear Judge Kuo:

Pursuant to this Court's April 23, 2025 order, plaintiffs State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company (collectively, "Plaintiffs") and defendants Yan Moshe, Hackensack Specialty ASC LLC, Integrated Specialty ASC LLC, Reuven Alon, Columbus Imaging Center LLC, Medaid Radiology LLC, SCOB LLC, Citimed Surgery Center LLC, NJMHMC LLC, Star Solutions Services LLC, Beshert Corp., Nizar Kifaieh, M.D., Premier Anesthesia Associates P.A., Regina Moshe, M.D., Citimedical I, PLLC, Citimed Services, P.A., Citimedical Services, P.C., Citimed Complete Medical Care P.C., Citimed Management Services Inc., Vadim Dolsky, L.Ac., Optimum Health Acupuncture P.C., Peter Kopach, L.Ac., and First Alternative PLM Acupuncture, P.C. (collectively, "Defendants"), respectfully write to address the status of fact discovery in this case.

I. Procedural History and Representation Status of Remaining Defendants

Plaintiffs commenced this action on October 5, 2021, filed the First Amended Complaint (Dkt. 63) on December 14, 2021, and filed the operative Second Amended Complaint (Dkt. 388) ("SAC") on August 17, 2023. The SAC names 63 defendants, 15 of which have not appeared in this action. Of those 15 defendants, certificates of default have been entered against 14 defendants¹, and Plaintiffs have been unable to serve the SAC and summons on Stacy Juyoung Moon, L.Ac. Mohamed Sayed Ahmed Hassan, P.T. and Nile Rehab Physical Therapy, P.C. initially appeared in the case, but the Court has since found them both in default. 2025.02.26 Text Order. Of the remaining 46 defendants, Plaintiffs settled their claims with 20 defendants.² Of the 28 remaining

¹ These are defendants Irina Kataeva, P.T., Cityworks Physical Therapy P.C., Ahmed Mahmoud Abdelshafy Elmansy, P.T, Sky Limit Physical Therapy, P.C., Kings Chiropractic Wellness, P.C., Jongdug Park, D.C., All About Chiropractic P.C., J Park Chiropractic P.C., SJM Acupuncture P.C., Heyongsock Choi, L.Ac., Choice Acupuncture PLLC, Choi-Go Acupuncture LLC, Right Aid Medical Supply Corp., Leonard Luna, D.C,

² These are defendants Raouf Akl, P.T., Primavera Physical Therapy, P.C., Sherwin Catugda Paller, P.T., Floral Park Physical Therapy, P.C., Giulio Caruso, D.C., Brook Chiropractic of NY P.C., Integrated Chiropractic of NY P.C., Longyu Ma, L.Ac., Hidden Dragon Acupuncture P.C., Xia Guan, L.Ac., Rebound Acupuncture P.C., Vladimir Nazarov, Paul Victor Scarborough, D.C.,

active defendants, 24 include individual defendants Yan Moshe, Reuven Alon, Dr. Regina Moshe, Vadim Dolsky, Leonid Shapiro, Nizar Kifaieh, and corporate defendants owned by them. The remaining two defendants are Peter Kopach, L.Ac. and First Alternative PLM Acupuncture P.C.

II. Status of Fact Discovery

1. Discovery Conducted by Plaintiffs

Plaintiffs are in the process of meeting and conferring with several sets of defendants and nonparties regarding deficiencies in document productions and other discovery issues, including the following:

- On June 23, Plaintiffs served a draft joint letter on Dolsky, Optimum Health, All Star Services Inc., and Five Star Services Inc. identifying their failure to produce any ESI in this matter to date, provide a date certain by which responsive ESI will be produced, and to disclose information about the location of gold, luxury watches, and other jewelry consistent with the Court's order. Defendants have requested until June 30 to provide a position.
- On June 24, Plaintiffs served a formal letter on the Moshe Defendants' regarding their failure to produce records responsive to discovery demands served in this action, including a substantial volume of emails in the email account yanmoshe@yahoo.com, and requesting these defendants' availability to meet and confer and the production of all responsive records within 14 days.
- On June 24, Plaintiffs served a formal letter on the Kifaieh Defendants regarding their failure to produce any ESI in this action and requesting these defendants' availability to meet and confer and the production of all responsive records within 10 days.
- On June, 27, Plaintiffs served a formal letter on the Alon Defendants regarding their failure to produce records responsive to discovery demands served in this action and requesting these defendants' availability to meet and confer and the production of all responsive records within 14 days.
- On June 24, Plaintiffs raised by email with counsel for the Citimed Defendants issues with missing email attachments to numerous communications. These defendants are working with their discovery vendor to evaluate the scope of these issues and to appropriately address them.
- On June 27, Plaintiffs filed a letter to the Court seeking an order for Torres to show cause for why he has failed to comply with the Court's order issued at the March 28, 2025

A.O.T. Chiropractic P.C., Evolution Chiropractic P.C., Mark Gladstein, Victoria Frenkel, Advanced Comprehensive Laboratory LLC, Amro Mahmoud Barakat, P.T., and Barakat PT, P.C.

hearing and further failed to remedy the defect in their production that omitted any attachments to an earlier production of emails. On June 25, Plaintiffs sent a draft of a joint letter to Nima Ameri, counsel for Torres, but received no response.

- On June 27, Plaintiffs and the Russell Friedman Law Group LLP filed a joint letter where Plaintiffs are challenging redactions that were applied to responsive documents based on a confidentiality provision in a settlement agreement involving various defendants. Plaintiffs will be seeking an order to compel the Russell Friedman Law Group to produce complete, unredacted versions of these documents.
- Plaintiffs were able to resolve outstanding issues with nonparty Brijesh Reddy, M.D. without Court assistance and took his deposition on June 12, 2025.

Plaintiffs have taken thirteen depositions.³ Plaintiffs are confirming deposition dates with nonparties and intend to notice an additional eleven depositions. Under this Court's order dated August 14, 2023, Plaintiffs are permitted to take up to 36 depositions.

Thus far, 32 defendants have served discovery requests on Plaintiffs. Pursuant to defendants' discovery demands, Plaintiffs have produced over 4,936,063 pages of documents and have completed both their ESI and non-ESI productions as of June 2, 2025.

2. Discovery Conducted by Defendants

i. Defendants Yan Moshe, Hackensack Specialty ASC LLC, Integrated Specialty ASC LLC, Reuven Alon, Columbus Imaging Center LLC, Medaid Radiology LLC, SCOB LLC, Citimed Surgery Center LLC, NJMHC LLC, Star Solutions Services LLC, Beshert Corp., Nizar Kifaieh, M.D., and Premier Anesthesia Associates PA

Defendants Yan Moshe, Hackensack Specialty ASC LLC, Integrated Specialty ASC LLC, Reuven Alon, Columbus Imaging Center LLC, Medaid Radiology LLC, SCOB LLC, Citimed Surgery Center LLC, NJMHC LLC, Star Solutions Services, LLC, Beshert Corp., Nizar Kifaieh, M.D., and Premier Anesthesia Associates PA (collectively "These Defendants") have served requests for documents and interrogatories on Plaintiffs. These Defendants have also noticed twenty-one (21) fact witness depositions, including corporate representatives of Plaintiffs and individuals who were involved in the investigation and filing of Plaintiffs' complaint. The depositions were initially adjourned and These Defendants anticipate rescheduling the depositions to occur in July and August. These Defendants may also subpoena additional witnesses, depending

³ Those deposed were nonparties Viktoriya Shakarova, Isaias Barrera-Perez, Damon Minus, Dmitri Ivanovski, Nazar Burak, Jelani Wray, Anam Azeem, Brijesh Reddy, Anthony Rose, and Alkies Lapas, as well as defendants Amro Barakat, Beshert Corp., and Citimed Management Services Inc (the latter two being Rule 30(b)(6) depositions).

on how the representative depositions proceed. Plaintiffs were still in the process of producing ESI documents on a rolling basis. These Defendants now understand Plaintiffs' final ESI production was on June 2, 2025.

As noted in Plaintiffs' section above, These Defendants have received letters dated June 24, 2025 directed to the Moshe Defendants and Dr. Kifaieh regarding alleged discovery deficiencies. The items contained in the letters are being evaluated and These Defendants intend on meeting and conferring with Plaintiffs' counsel within the requested time frame on these issues.

These Defendants have answered all sets of interrogatories and supplemental interrogatories directed to them. These Defendants have concluded their ESI document production except for some final privilege review. To date, These Defendants have reviewed and served documents totaling over one million pages. These Defendants anticipate retaining experts on various issues to be determined at the conclusion of fact discovery.

ii. Defendants Regina Moshe, M.D., Citimedical I, PLLC, Citimed Services, P.A., Citimedical Services, P.C., Citimed Complete Medical Care P.C., and Citimed Management Services Inc.

Defendants Regina Moshe, M.D., Citimedical I, PLLC, Citimed Services, P.A., Citimedical Services P.C., Citimed Complete Medical Care P.C., and Citimed Management Services Inc. (hereinafter collectively "Citimed Defendants") have served requests for documents and interrogatories on Plaintiffs. Citimed Defendants have noticed fact witness depositions on State Farm noticed to FRCP 30(b). Citimed Defendants intend on noticing approximately twenty (20) depositions, including corporate representatives of Plaintiffs and individuals who were involved in the investigation and filing of Plaintiffs' complaint. Defendants may also subpoena additional witnesses, depending on how the representative depositions proceed.

These Defendants have answered all sets of interrogatories and supplemental interrogatories directed to them. These Defendants have completed their ESI document production.

iii. Defendants Vadim Dolsky, L.Ac. and Optimum Health Acupuncture P.C.

Defendant Vadim Dolsky advises the Court that discovery efforts were initially delayed due to complications with his prior eDiscovery vendor, DISCO, which failed to properly segregate productions and transferred data inefficiently. These issues have now been fully resolved. The data was transmitted to Dolsky's new vendor, Purpose Legal, and has since been processed and uploaded into Relativity for review.

All responsive documents in Dolsky's personal possession, as well as those from Optimum Health and All Star, have already been collected and provided to us for review. The Five Star documents are now ready for production and are expected to be produced to all parties by the end next week. Purpose Legal advises that the volume of the data in the Five Star production will take extra time to compress for efficient production to all parties. With respect to the

dolskyLAC@yahoo.com email account, those emails have been isolated and are currently undergoing a privilege and confidentiality review by three attorneys. Redactions are being applied to materials protected by the attorney-client privilege. Dolsky anticipates providing a production timeline for these emails within the next two weeks.

In addition, Dolsky confirms that over 150,000 emails were collected from the natacha@fivestarserv.com account, which he identified as the central repository for communications related to All Star and Five Star. Review of these emails is ongoing, and due to the volume and prevalence of Spanish-language content, the process has been slower than anticipated. Counsel is working to confirm the timing of production.

With respect to the gold, diamonds, and jewelry (the “Assets”), Dolsky has previously been provided to Plaintiffs with an inventory of the Assets. Generating a new one which identifies the location of each Asset is contrary to the last conference with the Court. Dolsky informed us of where the Assets are, per the Court's direction. All Assets are in NYC. Dolsky has repeatedly offered—since April 2025—to schedule in-person inspections of the Assets and is currently working with Plaintiffs to finalize mutually convenient dates in August or September. He respectfully requests that Plaintiffs confirm proposed dates so several anticipated inspection sessions may be coordinated.

Finally, Dolsky intends to depose employees or agents of Plaintiffs with knowledge of: (i) the factual theories asserted in the Second Amended Complaint; (ii) the verification process used for evaluating claims submitted by each defendant; (iii) the methodology for calculating damages based on alleged upcoding; (iv) the percentage of IMEs that result in a denial of further treatment; and (v) the basis for plaintiffs’ allegation that none of the claims submitted by Optimum Health were medically necessary.

iv. Defendants Leonid Shapiro, M.D., Metro Pain Specialists P.C., and Tri-Borough NY Medical Practice P.C.

Dr. Shapiro, Metro Pain Specialists P.C., and Tri-Borough NY Medical Practice P.C. (collectively the “Metro Pain Defendants”) have completed the production of documents and ESI as well as a review of documents and ESI produced by State Farm and multiple third parties. Due to the voluminous nature of the discovery produced in this matter, the Metro Pain Defendants’ analysis of the documents and ESI is ongoing.

The Metro Pain Defendants intend to take the deposition of State Farm’s Rule 30(b)(6) witness or witnesses relevant to the following topics:

- (i) State Farm’s investigations of Dr. Shapiro and the Metro Pain clinics;
- (ii) allegations that the Metro Pain Defendants acted as a “gatekeeper” at the clinics located at 105-10 Flatlands Avenue, Brooklyn, New York; 204-12 Hillside Avenue, Hollis,

New York; 717 Southern Boulevard, Bronx, New York; and 2451 E. Tremont Avenue, Bronx, New York;

- (iii) allegations that the Metro Pain Defendants referred patients to providers for services that were not medically necessary;
- (iv) allegations that the Metro Pain Defendants had improper financial arrangements with the Moshe Defendants and the Dolsky Defendants;
- (v) allegations that the Metro Pain Defendants paid Jelani Wray to steer clients to the Metro Pain Clinics;
- (vi) allegations that the Metro Pain Defendants created a predetermined treatment protocol and directed medically unnecessary treatment;
- (vii) allegations that the Metro Pain Defendants prescribed medically unnecessary Outcome Assessment Tests;
- (viii) allegations that the Metro Pain Defendants prescribed excessive and unnecessary DME;
- (ix) allegations that the Metro Pain Defendants had excessive MRI referrals and were incentivized to refer patients for MRIs, injections and orthopedic surgery based on financial relationships with Moshe Defendants; and
- (x) allegations of the existence, structure, continuity and purpose of an enterprise under RICO.

In addition to the Rule 30 witness or witnesses, the Metro Pain Defendants also intend to subpoena State Farm's peer review doctors, including James N. Dillard, M.D., Vijay Sidhwani, D.O., Raghava R. Polavarapu, M.D., Stuart Springer, M.D., Vincent F. Amato, D.O. and Richard D. Semble, M.D.

v. Defendants Peter Kopach, L.Ac. and First Alternative PLM Acupuncture, P.C.

My clients, Defendants Peter Kopach, L.Ac. and First Alternative PLM Acupuncture, P.C., have agreed to a settlement in principal which we expect to execute next week.

Respectfully Submitted,

By: /s/ Christopher T. Cook

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